INDUSTRIAL ARBITRATION IN NEW ZEALAND

BY

J. MACGREGOR, M.A.,

BARRISTER-AT-LAW.

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"A sophism is more dangerous to a community than a crime."
—U. Proal.

(Reprinted from the Otago Daily Times.)

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MARLBOROUGH-COLLEGE.

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PREFATORY NOTE.

New Zealand has come to be regarded as a sort of laboratory for political and social experiments, and her people are inclined to be rather proud of the rôle, and are optimistic enough to believe that their experiments have issued successfully. Of such experiments, what is known as our system of Compulsory Conciliation and Arbitration in Industrial Disputes, is one of the most interesting, and in the following pages the writer has candidly answered the question appearing on the title page. It is with regret he finds himself constrained to answer in the negative, because, as a member of the Upper House, he helped the author of the measure, the Hon. W. P. Reeves, to get it placed upon the Statute Book. Having closely observed and studied the working of the system during the six years it has been in operation he claims to be in a better position to answer the question than Mr. Reeves can possibly be, inasmuch as he has been absent from the Colony during nearly the whole of that period. The writer finds himself driven by candour to admit that the system is not in any sense what it purports, and was intended to be—a means of settling industrial disputes and strikes by conciliation and arbitration—but is rather a system for the regulation of the industries of the Colony by means of ordinances (misnamed "awards") issued by a court of law. It is impossible for Mr. Reeves to contend that the system has been a success for the purpose for which he intended it, and the writer is convinced that Mr. Reeves is incapable of having resort to the subterfuge of arguing, as some people have done, that it has served its purpose of preventing strikes but in a different way from that intended—subjecting all industries to regulation by a court; and it is as such it must be justified by anyone who advocates its adoption by other countries. It may be necessary to remind such foolish people that a laboratory experiment is not a sufficient test, and that *ad poenitendum properat, cito qui judicat.*

It may be mentioned that since the first publication of the papers in the "Otago Daily Times," an Act has been passed which practically repeals the conciliation provisions of the Act; this has been done in spite of the opposition of the Trades Union Government. Mr. Reeves, as an honorable man, should either admit that the system has failed or disown it; only the skeleton remains and the skeleton is not the man.

INDUSTRIAL ARBITRATION IN NEW ZEALAND.

BY J. MACGREGOR.

No. I.

Let no man who begins an innovation in a State expect that he shall stop it at his pleasure, or regulate it according to his intention.

Of all the labour laws of New Zealand the Industrial Conciliation and Arbitration Act has attracted most attention beyond the colony, and that mainly on account of the generally recognised difficulty of the problem dealt with, and the novelty and boldness of the attempt at a solution. Visitors from Britain, the United States, France, and the other colonies have inquired into the working of this and our other labour laws; numerous articles upon the subject have appeared in the newspapers and magazines. A well-known writer on industrial and social subjects, Mr Henry Demarest Lloyd, of Chicago, after spending some months in New Zealand, published a book with the title "A Land Without Strikes," eulogising our system; and now we have the report of a Royal Commission sent from New South Wales for the express purpose of reporting upon the subject for the guidance of the Government and people of that colony. One thing that must strike such visitors is the fact that we in New Zealand have so soon come to regard as mere matters of course experiments which to them appear so novel and interesting on this and other subjects—such, for example, as that of woman suffrage. The Arbitration Act has been in operation now for six years, and it is indeed truly remarkable how little attention has been paid by the people of the colony generally, and especially by employers, to the question of the probable ultimate effects of legislation so novel and far-reaching. What little discussion has taken place has been until quite recently somewhat optimistic in tone, and the explanation probably is that during the whole period the colony has been in the enjoyment of a gradually increasing prosperity; employers and workers have been in the position of a healthy man of good digestion and with plenty to eat, who is unconscious of having digestive organs, and has no occasion to observe, still less to study, the processes going on. Thus it happens that up till now the opinion of employers upon the working of the system has been of so little value, and it is impossible to imagine an experiment being tried under circumstances more favourable; everybody wished it to have a successful issue. Three years ago the writer ventured to question whether the system was serving the purpose for which it was intended, but his voice was like that of one crying in the wilderness; now, however, when symptoms of waning prosperity are beginning to appear, and our Premier admits that the state of our public finance is causing him much anxiety, our general tone is not quite so optimistic, and now at length the question is being seriously discussed whether our much-vaunted system may not do more harm than good. Hitherto our newspapers—with, I think, only one important exception, the (Auckland) New Zealand Herald—have been friendly in their attitude towards the system; but now there are signs of a change. The employers have been too busy to pay much attention to the proceedings of the Conciliation Boards and Arbitration Court, or to form combinations to resist the multidudinous demands of the workers: they have, indeed, shown a remarkable lack of foresight and regard for their common interests, which they will probably have cause to regret. Another thing that renders the opinion of the employers almost valueless is that they are so completely at the mercy of the unions; they are afraid to say a word against the system, whilst many of them who enjoy Government patronage are afraid of giving offence in that quarter, for real liberty decreases as Liberalism increases. Whilst the em-

ployers have been content to shut their eyes to the future—content with making hay while the sun shines—the workers have been forming union and working the machinery of the act at full speed for the purposes of raising wages, reducing hours, and generally making the utmost of their opportunities. There are at last some signs that the employers are beginning to see what the tyranny of trade unionism means, and to realise the necessity for laying aside their petty jealousies and making common cause against it.

To the question at the head of this article —Has compulsory arbitration been a success?—the answers will, of course, vary a good deal; but it would probably be correct to say that, till quite recently, few thought of raising the question. Of course the Liberals and the Liberal Government declare that not only has the law been a success, but that it has largely contributed to the prosperity of the country; and there is no doubt that working people generally, but especially the unionists, are so satisfied of this that they regard as their enemy any man who dares to so much as question it. As for the employers, their attitude has been that of indifference. with, perhaps, a general inclination to regard the act as a success on account of their immunity from strikes. Their policy has been simply to make the best of the good times while they lasted, and to let the future take care of itself—a very short-sighted and dangerous policy, as they are even now beginning to find out. It is safe to say that if the employers in England had pursued a like policy, instead of combining to fight the great strike in the engineering trade in 1898, the result would have been irreparable injury to all concerned.

Proceeding, then, to endeavour to arrive at an answer to the question whether the act has been a success, we have first to recall to mind the object in view, and the circumstances under which the act was passed. It must be remembered, then, that the act was the direct outcome of the great maritime strike of 1890, which, so far as concerned New Zealand, was a purely "sympathetic" strike, and was really the only strike of any magnitude we have ever had. Defeated in the strike, the workers rushed to the poll at the general election which took place at the end of the year, and resulted in a great victory for the Liberal party under Mr Ballance. The Labour party, having identified itself with the Liberal cause, set itself to use to the utmost the powers of the Legislature for the attainment of their ends, and the passing of the act in 1894 was one of its great triumphs.

Obviously, then, the object of the Legislature in passing the act and of Mr Reeves in drafting and introducing it was to provide means by which strikes and lock-outs and disputes likely to result in such might be prevented or settled.

In order to see how completely the measure has been diverted from its real purpose we have only to refer to Mr Reeves's speeches in Hansard. In volume 77, at page 30, we read:—"This House is only asked by public opinion to legislate to prevent that class of labour disputes which cause loss or danger to the community—loss to those concerned and danger inasmuch as they may arrest the processes of industry." One wonders what he would have said if anyone had suggested that, instead of being brought into requisition in such disputes as he describes, the act would be plied daily for the purpose of creating disputes? And his answer may be inferred from the reasons he gave for preventing individual workmen from invoking the powers of the act. "I am determined to confine its operation to disputes between masters and trade unions. . . . I was induced to take that course for several reasons, one of which is this: that, if you allow one workman or two or three unorganised workmen to drag an employer before the Board of Conciliation, not only would that be grossly unfair to the employer, but it would soon make a laughing stock of the whole system. It would make the measure so extremely unpopular that a succeeding Parliament would probably sweep it away." We have reason to suppose that Mr Reeves thinks his pet measure is being made a laughing stock in spite of his precautions, for in the Legislative Council in 1898 one of the representatives of Labour in that Chamber read from a letter a passage in which Mr Reeves expressed the fear that the act was even then in danger of being ridden to death. But the pace at that time was a mere canter compared with the galloping pace at which it is being driven now. Is it credible that he would have secured the passing of such a measure had he foreseen that, instead of being used for the settlement of strikes, or disputes likely to lead to strikes, it was destined to be perverted into a means of getting up disputes and of creating unions for no other purpose than that of creating disputes and haling employers—almost every employer in the colony—before the Court of Arbitration? Listen to Mr Reeves when he declares: "If this measure fails it will be because it will be ineffectual, and not because it will do any active harm. If it fail, its failure will probably be because its provisions are not taken advantage of. . . . I can honestly say that the measure is not introduced as a one-sided or class

measure. I hope that it may be so administered and so worked that the employers in days to come will welcome it as their best friend"! Unquestionably the employers would have welcomed the system if it had been administered as its author and as the Legislature expected and intended, and they would welcome it still more now after their experience of it as an engine of warfare rather than as a messenger of peace and goodwill.

If anything further were required to show how completely the system has been perverted we find it in Mr Reeves's references to the Massachusetts system: "I cannot help thinking after devoting many hours to the study of this subject that the ideal board is one consisting of three persons appointed by the State, paid an annual salary, and able to go to any part of New Zealand where a dispute arises—a board which should have the power to transform itself into a judicial tribunal, able to compel parties to come before it and make its decisions legally binding. But I do not think public opinion is ripe for that yet. I think objection would be raised to pay three permanent officers suitable salaries." This passage shows quite clearly that our Court of Arbitration was intended to discharge the same function as the Massachussetts Board—namely, to settle strikes and lock-outs and such disputes as inevitably arise in the ordinary course of industry. Instead of this we have a court of law constanly moving about from end to end of the colony, like a Court of Assize, to adjudicate upon a long list of cases that have been got up by the unions and hurried through before the Conciliation Boards in order to be ready for trial by the court. Instead of one strike or dispute at a time, the court has long lists of cases awaiting for it at every centre, and it cannot overtake the work.

To complete the proof of this part of my thesis is only remains to mention the fact that Mr Reeves's act contemplated the imposition of only one fine, and that of a maximum sum of £500, under one award, the idea being that an employer locking out his men or a union persisting in a strike in defiance of an award could be brought to reason by the imposition of such a penalty. Instead of this we have a court that undertakes to regulate all the industries and most of the other businesses of the country down to the minutest details, simply because a union of perhaps only seven men, or even seven girls, has got up a "dispute" with the employers, and cited them before the court to have all the details of their business which the union has thought proper to mention adjudicated upon by the court! And thus it has come about that this statutory court, which has enormous powers against which there is no appeal, is seen perambulating the country like a peripatetic police court, inflicting fines of a few shillings upon some employer who has dared to give a job to a starving youth who has the misfortune to be a non-unionist

At this point, then, our answer to the question, Has the system been a success? must be this: that as a scheme for the settlement of industrial disputes in the ordinary sense it has never been tried; and the ordinary argument in its favour—that it has saved the country from strikes—reminds one of the saying about the number of lives saved by pins—by people not swallowing them. The reply will probably be that it has made strikes impossible by reason of the fact that all industries are regulated by the decrees of the court. So be it; but let the system be judged as one used for that purpose and not for the purpose for which it was intended. The man who wrote "A Land Without Strikes" shows by the very title of his book that he failed to realise the real nature and operation of the system. The same remark applies to Sir W. J. Lyne, Edmund Barton, and the other Australian politicians (not statesmen), who propose to introduce the system into Australia on the ground that it has been scuh a success in New Zealand as a means of preventing strikes. Mr Reeves said in Parliament "that it would take years before the public can say whether or not they consider it a good and useful measure—experience alone will show that"; obviously because he thought the compulsory clauses might not be invoked for years, inasmuch as they were not to be used except as a last resort for the settlement of some strike, lock-out, or dispute likely to "cause loss or danger to the community." For such a purpose the act has never been tried, and yet responsible Ministers of the Crown are ready to apply it to the whole of Australia on the strength of our experience, and a sentimental English bishop and that prince of cranks and faddists, W. T. Stead, are ready to run the risk of applying it to the enormous industries of Great Britain

If there is any lesson to be learnt by other countries from he experience of New Zealand it is this: that, if they want a system of arbitration for the settlement of strikes and real disputes rather than one for the creation and multiplication of factitious disputes, they should adopt some such system as that of Massachusetts.

So far, then, our answer to our question is that the system cannot be said to have been a success, inasmuch as it has never been tried for he purpose for which it was intended; whether it can be pronounced a

success as a system for the regulation of all the conditions of all industries, trade, and occupations is quite another matter, which we propose to consider later on.

No. II.

CONCILIATION A FAILURE.

In the mean ime, let us consider it as a means of promoting conciliation. As we have already seen, the author of the system was utterly mistaken as to the purposes for which it would be used, and I propose to show now that he was equally mistaken as to the method in which it would be used. In moving the second reading (in 1894) Mr Reeves said: "I do not thing the Arbitration Court will be very often called into requisition; on the contrary, I think that in 99 cases in 100 in which labour disputes arise they will be settled by the Conciliation Boards; but unless you have in the background an Arbitration Court the Conciliation Boards will not be respected, and they will be virtually useless." If he had been asked how long it would take for a hundred cases to arise he would probably have said nearly as many years; at any rate, there can be little doubt that, if he could have foreseen that within six years of the act coming into actual operation such a multitude of "disputes" had "arisen" (or rather been manufactured under it), he would have run away from it as from a dangerous monster. This is the outcome of a measure intended by its author to promote conciliation and goodwill between employers and employed, and still people can ask whether it has been a success! One member of the Upper House who opposed the bill spoke as follows:— "Talking about reconciling the employer and employed in the way proposed by this bill reminds me about the little rhyme about the young lady from Riga:

> There was a young lady from Riga,
> Who went for a ride on a tiger:
> They returned from that ride
> With the lady inside,
> And a smile on the face of the tiger.

There can be no doubt as to which of these members had the clearest conception of the probable outcome of the measure—the tiger has indeed lain down with the lamb—inside, and the smile on his face is very broad. Three years ago the present writer contended that as a means of promoting conciliation the system had failed, and that the Boards of Conciliation should be abolished; and within the last few days the Premier has practically admitted this, although, instead of blaming the unionists, he blames the boards.

Reverting to our question, then, we can have no hesitation about saying that as a means of promoting the settlement of labour disputes by concilation, this scheme, so far from being a success, has been an almost complete failure. The position, then, is this: that the measure intended to serve the same purpose as the Massachusetts system—namely, the settlement or prevention of strikes and lock-outs and disputes likely to result in such—has completely missed its object. If it can be said to be a success, it must be in some quite different way from that intended. Now, we know there has been a general disposition in the community to take for granted that the system was a success; employers thought of nothing beyond being left in peace to make the best of the good times while they lasted, and they were ready to concede almost any demands of their men, believing that they could reimburse themselves by raising prices. Thus it was that so many of them were inclined at first to regard the system with a certain amout of favour. As a class, they have shown singularly little provision, and an almost total disregard for their common interests. In the past, the leading characteristic of the average New Zealand employer was fairness towards his employees, and for some time after the new system came into operation this continued; but it is now giving way to a tendency to hold aloof and to concede nothing more than the law compels; whilst, as between employers and employees, there has been almost a total absence of that spirit of combination for common defence which saved the English engineering trade in 1898. But now at length there are indications that they are beginning to realise the necessity for combination for the common defence against the tyrannical exactions of the unions, and the tendency of the Conciliation Boards and the Arbitration Court to act upon the principle of giving the unions every time some part of their demands, instead of being guided by principle. The truth is that the whole idea of conciliation and the existence of so-called Concihation Boards is an absurd incongruity in a system applied not for the settlement of real disputes, but for the regulation of all industries on the demand of the unions. When the President of the Court said, shortly after his appointment, that the boards should be retained because they bring the employers and employees together for friendly discussion, he cannot have realised what the boards have become —namely, courts of first instance, where the employers as a rule do not meet their employees, except, perhaps, as witnesses called by the labour advocates, who are not even appointed by the employees, but by the Trades and Labour Council. There can be no such thing as conciliation in the

proper sense where there is no real dispute between employers and employed, but merely a long list of demands formulated by the union and the council. Even in those cases that have not gone beyond the Conciliation Board there has been no conciliation in the ordinary sense. The employers have, as a rule, yielded to the demands where they could see their way to pass on the burden to the broad back of the public, and they have shown no determination to fight for important questions of principle such as the iniquitous demand for preference to unionists. There has been too much concession and compromise, but very little conciliation; whilst on the part of the unions there has been very little of either: they have no doubt in some cases accepted less than their full demands so long as they secured a minimum wage and preference; but it has been with the full determination to renew the fight on the expiration of the period of the armistice. Of the true spirit of conciliation they have shown none. Concessions made by the employers the unionists have treated as the Boers treated the concessions made by the British—as signs of weakness.

Our conclusions, then, so far, are that, as a scheme intended for the substitution of conciliation and arbitration for strikes and lock-outs in real industrial disputes, the system has never been tried, and therefore to speak of it as either a success or a failure is a misuse of terms, and that as a scheme for the promotion of conciliation it is a failure. I am convinced that no one who has followed the reasoning with competent knowledge of the nature and working of the system can fail to admit the correctness of these conclusions; but it must be observed that I do not say the act has been a failure. What I do say is that, if it is a success, it is not as that which it was intended to be, but as something quite different. It follows that those who describe the system as a success by reason of its securing to us immunity from strikes are either wilfully or ignorantly misrepresenting the facts. The very title of the book, "A Land Without Strikes," is a misrepresentation, inasmuch as it implies that the system has been completely effectual in the settlement of disputes which would otherwise have resulted in strikes, whilst the fact is that no one can say it has ever been invoked in such a case. When the then Premier of New South Wales, Sir W. J. Lyne, met a deputation opposing the introduction of the system into that colony with what he apparently considered the conclusive answer that in New Zealand the system had been satisfactory, because "it had put a stop to strikes," he was simply showing how utterly ignorant he was of the subject.

III.

Let us now proceed to consider the actual working of the system, and whether it can be described as a success. Although it is incorrect to say that " it has put a stop to strikes," the fact remains that during the period the act has been in operation New Zealand has been a "land without strikes." I am prepared to go the length of admitting that the probabilities are that but for the existence of the act we should have had one or more strikes. Is it then correct, after all, to say that the act has prevented strikes? Have we simply been splitting straws all the time? By no means: the act was intended to be applied, like the Massachusetts system, for the prevention of strikes in the sense of providing the means of settling disputes resulting in or likely to result in strikes or lock-outs. If the system has prevented strikes it has done so by reason of its being worked, not as a method of settling disputes arising in the ordinary course, but as a method of enabling unions to get up factitious "disputes" for the express purpose of having them adjudicated upon by a court of law. Herein lies the whole crux of the question. This is one way of "preventing" strikes, but it is not the way contemplated by the author of the measure nor by the Parliament that enacted it. Still, the question is whether it has been successful, and we should have had no fault to find with those who declare it has been successful had they not used terms implying that the system had been used, and successfully used, in the settlement of disputes in the ordinary sense. That it has been successful as a system for getting up "disputes" for the express purpose of having them adjudicated upon there is no doubt; but the real question is whether a system which "prevents strikes" in this way is necessarily beneficial. We have now succeeded in making clear the absurdity of describing as a method of preventing strikes a system used for an entirely different purpose—namely, the regulation of all the details of trade and industry by the decrees of a statutory court of law made under the pretence of settling disputes—disputes got up for the express purpose of being submitted to the court, and which in all probability would never have been thought of but for the fact that the existence of the court prompted them.

What we have to inquire about, then, is the success or failure of a scheme, not for preventing strikes, but for the control and regulation of the trade and industries of the country with the object of making strikes impossible—two very different things; and the real question is whether immunity from strikes is a matter of such transcendent importance as to make it worth our while

placing the regulation of our industries under the control of a court of law. That is the real question, and books like "A Land Without Strikes" must be re-written to be of the least value. "Liberal" politicians for whom the history of the "wretched past" has no lessons, and socialistic unionists who think they enjoy immunity from the laws of political economy since it was banished to Saturn, will have no hesitation in saying, not only that immunity from strikes is worth the price, but that the regulation of trade in that way is a good thing in itself; but I confess that to me there is a very strong presumption against the permanent success of any such arrangement.

Let us see what it means in actual practice. During the period of less than six years that the act has been in actual operation a multitude of disputes have been "faked up" under it, and there is scarcely an industry or trade in the colony that is not subject to restrictions imposed by an award of the court at the instigation of the unions, and in a sense at their dictation, inasmuch as they can call upon the court to adjudicate upon any question they think proper to raise affecting any industry. There is scarcely an employer in the colony that is not subject to an award of some kind, and many are subject to quite a number of awards at the same time; in the engineering trade, for example, an engineer may be hedged round by seven different awards. The modus operandi is very simple. A meeting of the union in any industry, from shipping or coal mining to hair-dressing or shirtmaking, is held. A long list of demands is drawn up, great ingenuity and resource is shown in formulating them so as to cover the minutest details of the trade. This list of demands is sent to the employers in the trade, and in the case of any of them refusing or ignoring the demands, a "dispute" is held to have arisen within the meaning of the act, and the machinery is put in motion for the "settlement" of the "dispute." As a rule many of the employers, and those of the employed who do not belong to the union, are not aware of the existence of the "dispute" until they see some reference to it in a newspaper. In many instances the so-called trades union is as purely factitious as the "dispute" inasmuch as it is formed for the express purpose of getting up the dispute. And so the formation of unions, the getting up of "disputes," and the settlement or the adjudication of them goes merrily on. If the act was intended simply to provide the means of getting up disputes for the express purpose of being adjudicated upon, regardless of ultimate consequences, then it must be pronounced a success; but I have shown clearly that it was intended for quite a different purpose. It cannot be said to have failed (except in so far as its object was the promotion of conciliation), inasmuch as it has never been tested for its proper purpose. Neither has it been a success for that purpose, but it does not follow that it may not have been a success in a different and perhaps better way. This is what we have now to consider.

The position, then, is this: that the people of New Zealand find in active, very active, operation amongst them a system which controls and regulates all the industries of the country in a manner that neither the people nor the Legislature intended; that the system has been diverted from its purpose in this way by unionists, who form a comparatively small proportion of the population, and furthermore by a comparatively small proportion of the unionists—namely, the agitators or wire-pullers amongst them. As we shall see further on, the systhem has been thus perverted to serve the ends of one particular class, the unionists. From their point of view and as a means of securing political support for their Government the scheme has been a decided success; but the real questions are: Has it been a success in the sense of being beneficial to the country as a whole? Is it likely to be, or is there any chance of its being a success in this sense?

If the system had been put to the test, say once in each of the six years it has been in force, for the purpose of settling strikes, we might by this time have been justified in forming an opinion as to its success. But since it has not once been put to the test, no man of competent knowledge, and having a due sense of responsibility, would commit himself to any opinion on the subject. When one finds the Premier of a great colony—the mother colony—expressing himself thus in reference to it: "Whatever will prevent the repetition of strikes is an absolute success, and they have prevented strikes in New Zealand—from whatever cause they have done it," one can only exclaim with Oxenstiern, "with how little wisdom is the world governed?" If we have prevented strikes in New Zealand we have achieved this object, not in the way we intended, but by subjecting all our industries to regulation in every detail by a court; if Sir W. J. Lyne had been aware of this would he have committed himself to such a statement? One can understand unionists of the Marxian school of socialism taking up such a position, but not a Minister of the Crown who makes pretensions to statesmanship. No man is justified in describing the system as a success either as a means of

preventing strikes or as a scheme of trade regulation. Mr Reeves said, "It will take years before the public can say whether or not they consider it a good and useful measure—experience alone will show that.' We have had absolutely no experience of it in the way in which he intended it to be used; but if, say, six years would have been necessary to test it as a means of settling strikes, how many years would be required to test it as a means of regulating all industries so as to make strikes impossible? Would any reasonable man say that a period of six years of steadily-increasing prosperity in trade is sufficient to test such a scheme? Unscrupulous politicians and union agitators and fanatics are prepared to go further, and say that our prosperity has been largely due to such legislation; but it were waste of time to reason with people of this kind. But the point I wish to emphasise is that no one, so far as I am aware, has undertaken to estimate the success or failure of the system as what it really is—a system for placing all employers of labour and all the details of our industries under the control and regulation of unions issuing their mandates through a court of law; if it has been successful in the prevention of strikes (the purpose for which it was intended) it has effected this by being applied to a purpose for which it was not intended; and those who, like Henry Demarest Lloyd and Sir W. J. Lyne, have pronounced it a success are bound to justify the system as one of complete regulation of industries. This they have not attempted to do, and so they stand convicted of ignorance—or what is worse, disingenuousness,—and their opinion is worse than valueless.

Objection will probably be taken to my describing the Court of Arbitration as a court of law for dictating to employers and regulating industries at the instigation and dictation of unions, but the terms are perfectly justifiable. In the first place, the court has unconsciously allowed itself to be diverted from the purpose for which it was intended by the Legislature—the settlement of real disputes and not mere factitious demands. This was done at the instance of the unions. The result is that a union that has been in existence only seven days, and probably consists of only seven youths or girls, can invoke the aid of the court for the purpose of enabling them to dictate terms to their employers, and to interfere in the carrying on of his business down to the minutest details. And the court has completed its own transformation by ordering employers to give preference of employment to unionists The system is in its very nature to a large extent one-sided, but the court has made it completely so. The result is that, instead of a court for the settlement of strikes, we have the sorry spectacle of a Supreme Court judge perambulating the colony from end to end, inflicting paltry fines upon employers for offences which have no existence in the jurisprudence of any other civilised country —offences that have no existence apart from the award of the court that created them at the instance of trades unions. The act says there is to be no appeal from this modern Star Chamber, and so far as the employer is concerned there is no appeal; but the unions have an appeal, in spite of the act, to the People's Government and the trades union Parliament, and they never appeal in vain to that quarter. If, for example, the court refuses the demand for a reduction of hours from 48 to 44 without reduction of wages, a bill is brought in for that purpose, or if the court boggles about its jurisdiction to grant preference to unionists the question is straightway settled by statute. Surely never outside of Baratarea was such a court ever seen or imagined; and yet the court goes on its way, trying hard to look dignified as it hurls its mimic thunderbolts against some wicked master baker for the heinous offence of employing some hungry boy guilty of the offence of being a non-unionist: fined 5s, with costs! Employers had better take warning, for this court had the power of inflicting a fine up to £500, and the next offender may not get off so lightly!

IV.—"THE STATUTE OF LABOURERS" UPSIDE DOWN.

When one learns that nearly every industry in the colony has its award, one begins to see a strong resemblance between such awards and the "Statute of Labourers" of a Tudor tyrant, and to wonder whether the most progressive country in the world (in its own estimation) has gone to the fourteenth century for its notions of political economy. In New Zealand, methods essentially the same as those used in the fourteenth century by masters against men are now being used by workers against employers. In the fourteenth century, a Parliament of masters, because of the "insolence of the servants," who asked for higher wages than had been previously paid, "to the great detriment of the lords and commons," ordained that no person should refuse to labour for the same wages they were accustomed to receive in the twentieth year of the King's reign (1347), and that even the lords of the manor, if they paid higher wages, were to be fined in treble damages. Also that the lord was to have the first claim to the labour of the serf, and those who refused to work for him

or others at the fixed price were to be sent to the common jail. Now, however, the tables are turned (and not before it was time), and the Workers' (unionists') Court, created by a workers' Parliament, ordains that the employer is not to pay the workman less than a certain minimum wage, and that he is not to employ a non-unionist except in case of his not being able to find a unionist, and if he gives a job to a non-unionist because he is poor and hungry, or if he pays less than the minimum wage to a man who is glad to get it because he knows he is not worth the minimum wage, the employer is to be sent to the common jail. The resemblance is indeed remarkable, and I am inclined to think the older ordinance was the more rational of the two, considering that the one was made in the fourteenth and the other in the enlightened ninteenth century. The older ordinance, whilst ordering the worker to work for a certain fixed wage a day, attempted to secure for him cheap food by enacting that food must be sold at reasonable prices; but our modern ordinances (award), whilst commanding employers to pay not less than a minimum wage, makes no attempt to secure for them a fair price for their goods or to compel the worker to accept employment at the minimum wage. All things considered, it is hard to say whether the old English ordinance is not as rational as the boasted product of "Liberalism" and enlightenment in New Zealand, the most progressive country in the world, "the heir of all the ages, in the formost files of time."

This wonderful ordinance of the English masters remained on the Statute Book over 200 years, and for some time the fines and forfeitures levied under it formed a large source of Royal revenue; but in spite of Kings and Parliaments, and pains and penalties—even to branding of the forehead with a red-hot iron—it became impossible to enforce the law, for wages kept rising in spite of all. The landowners complained that the law was entirely inoperative, and Parliament obediently made further enactments; and in 1363 an act was passed fixing the quantity, quality, and price of both food and clothes the labourers should have. Our New Zealand Parliament is quite as subservient to its masters, the unions, as ever an English Parliament was to the landowners, and nothing will be wanting on its part to enable them to have their own way with that "social pest," the employer, and the fines levied for breaches of awards might become a useful source of revenue which might be devoted to the endowment of unionism. Already we hear of a proposal to prevent by legislation the reduction of wages when the boom is over, the counterpart of the old enactments fixing the quantity, quality, and price of the labourers' dress and food. Is history going to repeat itself, and political economy to be brought back from Saturn—the community paying the expenses of the double journey?

In obedience to the demand of the unions, our act has been altered almost every session—not for the purpose of lessening its inevitable one-sidedness and unfairness to employers, but for the purpose of rendering it more efficient as a weapon of offence against them. In fact, its most essential features have been recast. Under the act of 1894 awards were to be enforced by writ of attachment issued from the Supreme Court; the unions were unsuccessful in their first attempts to obtain attachments, and they appealed to Parliament, which forthwith endowed the trades unions court with full powers. It was one of the essential features of the original act that awards were not to be legally enforceable unless the Court of Arbitration so declared by the award itself. On this point the author of the original measure said:—"As the court is likely to consist of experienced and reasonable men, I do not think they are likely to misuse the great powers placed in their hands, especially when we make it clear that they are only to make such awards binding as they may think it will be common sense to try and enforce by law. Therefore I have steered this middle course of making some awards binding (legally enforceable), and leaving others to the good sense of the parties." If, for example, it had been suggested that this court might be so unreasonable as to make awards ordering employers to give the preference of employment to unionists, and make them legally enforceable, Mr Reeves, I am sure, would have scouted the suggestion as an insult to a court presided over by a Supreme Court judge. Yet this is precisely what the court gradually came to do under constant pressure from the unions; yet even then the unions were not satisfied, and Parliament had to take from the court the power of saying whether its awards were to be legally enforceable or not. In short, the history of this act is the history of coercion by legislation everywhere—one dose renders another necessary; it is like drinking seawater. And yet, again, as though they were determined to remove all the leading features of Mr Reeves's handiwork, the unions got their Parliament to transform the Boards of Conciliation into what they now are in reality—courts of first instance; so that now, instead of Mr Reeves's Boards of Conciliation settling 99 per cent. of disputes by conciliatory methods, with the Court of Arbitration "in the background,"

we have two courts—a court of first instance, and a Court of Appeal, to which there is a larger proportion of appeals than to any other court in the world. And now, as I write, there is still another amending bill before Parliament, entirely dictated by the trades unions or the Labour department, whose function it is to keep their demands constantly before Parliament. One of the proposed amendments consists of only five lines, and yet it will have the effect of placing in the hands of the unions the most effective weapon against employers which their devilish ingenuity has so far devised. The original act, in furtherance of its design of settling and preventing strikes and lock-outs, provided that whilst a dispute was before the board or the court an employer was not to lock out his men, and a union was not to strike; the proposed amendment is intended to deprive employers of the power of dismissing a unionist, not merely when a dispute is in course of settlement, but when anything is pending "preliminary to the reference of the dispute and connected therewith."

Then follows a specimen of coercive legislation so perfect in its way as to be worth quoting in full:—"In case either of the parties shall interrupt the relationship of employer and employed by the dismissal of any of the employees, or by any of the employees discontinuing work, the onus of proving that such discontinuance of work or such dismissal was not done in contravention of section 100 shall be on the employer if he dismisses as aforesaid, and shall be on the employee if he discontinues work as aforesaid." And yet Mr Reeves fondly imagines he can trace the features of his beloved offspring in this monster! I sincerely hope he may not have to admit that he regrets having fathered it.

V.—COLONIAL TRADE UNIONISM.

Dominationis in alios servitium suum
Mercedem dant.

Having shown, I think conclusively, that the system is not, and never can be, a success for the purpose for which it was intended, I propose to consider the chance or possibility of its being a success as a system for the regulation of industries. A glance at an award will show the lines upon which the court proceeds under the guidance of the unions. The two points upon which the unions have insisted most strenuously are the minimum (living) wage and monopoly of the employment for unionsts. But, besides these, the court deals with all the usual aims of trades unions, such as reducing the hours of work, limitation of number of apprentices, and making indenturing compulsory, abolition of payment by the piece and of overtime, etc. The first thing to note, then, is the enormous power of the unions: the act gives them the right to call upon the court to adjudicate (practically legislate) upon any subject, however important or however insignificant, and the right might as well be exclusive, for the employers never exercise it, and probably never will, and the court has made the unions masters of the situation by granting them monopoly of employment, as this has led to great increase in their numbers.

It has been truly said that unionism must dominate Parliament if it is not controlled by Parliament, and in New Zealand for some years it has dominated the Government, and through it the Parliament. The ultimate aim of the ringleaders in the conspiracy is to dominate the employers and control all the industries of the colony; and Parliament has deliberately furthered their aims, whilst the court, by awarding preference to unionists, has unconsciously played into their hands. They have achieved their object, and the employers from end to end of the colony feel themselves to be at their mercy. This is no exaggeration, but a sober statement of fact. Is it possible or conceivable that such a system can be a success?

If the teachings of history have any value at all, there is a strong presumption against the success of legislative and other artificial attempts such as this to fix wages and otherwise arbitrarily regulate the production and distribution of wealth; and this presumption is almost raised to a certainty when the attempt is made by means of a system so completely controlled by unionism as the New Zealand system is. In New Zealand, as in the other colonies, and in the United States, there is amongst the working classes generally a growing tendency towards socialism of a vague kind; whilst the leaders of Unionism are, with probably few exceptions, influenced by the materialistic socialism of Karl Marx. They regard Marx's "Capital" as their Bible, and accept as infallible truths fallacies which have been exploded over and over again, and doctrines which Marx himself admitted towards to the end of his life to be erroneous. Many of them accept as gospel the asserted right of the worker to the whole produce of industry, which has been called "the fundamental revolutionary conception of our time," and consequently they regard the capitalist as the vampire that sucks the blood of the workers. They accept as beyond question Marx's teaching as to class warfare, which sees in society simply a war of classes for the possession of material advantages, and regards the capitalist as a stranger and an enemy; it is not justice they demand for

the workers, but power, looking forward to the time when the workers, organised into federated unions and societies, must obtain complete control of the government of the country, and of all the instruments of production. They also echo his contempt for patriotism: the union and the interests of one particular class have taken the place of patriotism, and there is good reason to believe that many of the leaders are pro-Boer in their sympathies.

Unionism in New Zealand has become a triple tyranny—the ringleaders and agitators tyrannise over the general body of unionists: the unionists, who are only a minority of the workers, have established a tyranny over the workers generally, and they exercise almost complete control over the Ministry and the Legislature. They are at present concentrating all their efforts upon one object—to compel employers to use their capital according to the determinnations of the unions, dictated through the Court of Arbitration, and in the meantime to give the least possible return to the employers for wages received.

The submissiveness of the general body to a small clique has always been characteristic of unionism. "There is too little individual thought or volition among them, and that little is rarely courageous. They follow others, thinking they are going with the majority, when in truth often half the majority are ignorant or reluctant, the impulse being given by a small, often unwise, sometimes selfish and dishonest clique. There is, perhaps, no such thorough oligarchy as that often to be found among trades unions." In order that they may coerce the employers, they are content to surrender their individual liberties and individual judgments, and they show no resentment, however dictatorial may be the rule exercised over them by their self-constituted leaders. This feature of unionism generally is specially characteristic of the peculiar variety created and fostered in New Zealand, inasmuch as the preference of employment to unionists compels large numbers to join the ranks who would much prefer to retain their liberty. A solidarity which is quite artificial and unreal is made the pretext for tyranny, not only over members, but also over non-unionists.

We have already seen how completely the unions have captured Parliament; this is entirely the work of a few wire-pullers, who arrange the "tickets" at elections, and succeed in imposing themselves, not only on the unionists, but upon the workers generally. At our last general election, for example, the wire-pullers consummated a secret alliance of the labour party with the Roman Catholics and the liquor interest, by means of which they succeeded in foisting upon the constituencies members of whom they were in some cases ashamed when they came to know them. But there are indications now of a determination on the part of the other classes to throw off this infamous tyranny of a minority of a minority —this government within the Government.

With such a spirit animating trade unionism, it was inevitable that our system of conciliation and arbitration should be perverted into an instrument of tyranny over employers; and the action of the court in granting the right of preference to unionists presents an instance of fatuity that would be difficult to parallel. But it is inconceivable that such a detestable tyranny as the leaders of unionism are striving to establish can long be tolerated. It has been said that labour passes through three stages —when it is enslaved, when it is free, and when it is tyrannical; in New Zealand it has reached the third stage.

One of the features of new unionism generally is its contempt for the old unionism, and especially for its encouragement of thrift and self-help. The inculcation of thrift is looked upon with coldness, if not with aversion, by our New Zealand variety of unionism, as, indeed, it is by materialistic socialism generally. Experience shows that amongst the workers as a rule, thrift goes with unselfishness and a sense of duty and responsibility, and unthrift with selfishness and self-indulgence. The whole tendency of unionism amongst us is to destroy in the worker the one thing on which his manliness and his chance of real happiness depend, by disparaging the old unionist idea that it is a man's duty to carry at least his own burden; it tends also to discourage the foresight and self-control which form one of the elementary factors of morality—"a quality in moral character which determines the happiness or misery of them who possess or do not possess it, in a way that goes far deeper into life than by mere success or failure in laying by a sum of money." The difference between the old unionism and colonial unionism is clearly seen in their different attitudes towards the question of old age pensions, the tendency with us being to look to the State for everything, and to discourage self-reliance. It is still more clearly seen in the fact that amongst the unionists in New Zealand there is almost complete indifference to real co-operation, which in England has made such remarkable progress in recent years. The whole tendency of our boasted labour legislation is to discourage real co-operation, and one of the worst evils of our arbitration system is that it tends, not only to divide perma-

nently employers and wage-earners into two hostile camps, and to render it more and more difficult for the wage-earner to become an employer, but also to segregate the wage-earners more and more from the other classes in the community.

Such are the general tendencies and character of unionism of the colonial type, and it must be admitted that the probabilities are against the success of a system of conciliation and arbitration in which unionism has such a preponderating influence. Coercion and class-warfare are of the very essence of it, and we can now see that failure was the inevitable fate of any system based upon conciliation. Unionism, like other institutions, possesses no other virtue than that of the men of flesh and blood who apply it, and the leaders of colonial unionism, like their master, Karl Marx, profess the most profound contempt for moral ideals generally. Their reliance is upon force, not upon character.

The quality of our unionism strengthens enormously the presumption against the success of the system as one for the regulation of trade and industry by legal decree. In "Industrial Democracy," a book that is regarded as the very gospel of unionism, we read:—"The economist and the statesman will judge of trade unionism, not by its results in improving the position of a particular section of workmen at a particular time, but by its effects on the permanent efficiency of the nation." Is it to be expected that unionism, imbued with such a spirit as I have described, can promote the efficiency of labour? However it may be elsewhere, there can be no doubt of this—that unionism in New Zealand does not even PROFESS to have any such aim, and that its whole tendency and influence is in the opposite direction. If it be true that unionism, like government, is to be measured by the men it eventually makes, not by the advantages it immediately confers, then colonial unionism and the new unionism generally stand condemned.

The authors of "Industrial Democracy," in their advocacy of the cause of unionism, find themselves compelled to make an important disclaimer of certain abuses which they describe as mere accidents, and which, according to them, form no part of the policy of unionism. On behalf of English unionism they disclaim the following:—The exclusive right to a trade, the restriction of the number of apprentices, the objection to piece work, the objection to the introduction of improved machinery, the "ca' canny" principle, and interference with management.

Now, most people will be inclined to doubt whether even English unionism is entitled to this disclaimer; but it is certain that colonial unionism, and especially the bastard New Zealand variety, is not entitled to it. The whole spirit of unionism in New Zealand is to give the employer as little value as possible for the maximum amount of wages. To say that this is true of all unionists would, of course, be a libel on many excellent men who are unionists; but my reference is to the general spirit and tendency of the system. Employers are fully convinced that, whatever the theory may be, there is a good deal of "ca' canny" in actual practice. Judge Backhouse, the New South Wales Commissioner, in his report, mentions a case in New Zealand in which the offence had been sheeted home; and the value of the disclaimer of Dr and Mrs Webb on this point may be judged from the following facts: Sir Hiram Maxim gave an instance of a small gun-attachment which the union committee classified as a-day-and-a-quarter job. He invented a machine to make it, but the men would produce the piece only in a day and a-quarter, even with the machine. He then hired a German workman, who easily produced 13 pieces a day. It is only necessary to add that Dr and Mrs Webb admit that the "ca' canny" rule is an "adulteration of labour" which may "easily bring about the final ruin of personal character."

The limitation of the number of apprentices is a subject on which New Zealand unionism insists very strongly, and almost every award of the court imposes such restrictions; and yet our authors describe it as "undemocratic in its scope, unscientific in its educational methods, and fundamentally unsound in its financial aspects."

To see how little New Zealand unionism is entitled to the disclaimer of interference with management, one has only to read the demands filed by the unions and the awards of the court. That court has stretched its enormous power of interference even beyond its very wide legal jurisdiction by ordering an employer, on the demand of the union, to reinstate certain unionists whom he had dismissed. As an instance of interference on the part of a union, I give the following specimen of a letter from the secretary of a union to an employer:—

"May 27, 1901.

"Mrs.....

"Dear Madame,—I have been instructed by the.....Industrial Union to inform you that unless Miss ..... (to whom you gave one week's notice without just cause whatever, after being in your employ for a considerable number of years) is reinstated within three days from date,

further proceedings will be taken by the above union.

"I have also the honour, as secretary, of forwarding you the log, which is enclosed, and agreed upon by this union, to which we shall be pleased to hear of your answer on Saturday, June 1 inst. Failing that, we intend to file the statement immediately after that date. I am, dear madam,—Yours truly,

"....."

This is an example of what employers are getting used to in the way of interference (to put it mildly) in the Land without Strikes; the case is interesting also as an illustration of the way in which a "dispute" is got up for conciliation. Down to the minutest details the unions interfere with management: in a reference filed by the tramway employees, one of the demands is, "That employees be allowed to smoke when the car is not in motion"!

VI.—THE ECONOMICS OF THE MNINIMUM WAGE.

Call that which is just equal, not that which is equal just.—Greek proverb.

The result of our investigation up to this point has been to find that a system intended by Parliament as one for the settlement of strikes has proved in actual practice to be an arrangement for placing the regulation of all trade and industry under the control of the unions exercised through a court created for the purpose. The union leader is constituted a Lycurgus, organising things according to his own ideas, and he is busily engaged in framing a constitution for a society composed of consumers, employers, and wage-earners, amongst whom he undertakes to distribue wealth as he thinks proper. How little consideration the consumer receives either from the unions or from the court we shall see further on. The unions assert and exercise through the court the right to say what wages all classes of workers are to receive, and what work they shall give in return; and the question arises whether this is practicable in a community not founded upon pure Socialism, but upon private property, and ostensibly upon freedom of contract, and in which industries are carried on by private employers at their own risk, and with their own capital. This attempt is made by arbitrarily fixing a minimum wage for each industry, and it is probably not the least use arguing with the workers that all such efforts to enrich one class at the expense of another are wholly uneconnomic; for they would probably reply, "So much the better"; nor is it any use expecting to convince them that the only way to permanently raise wages is to increase production. For the teachings of history and economics not only the unionists, but the delegates they send to Parliament, have the most profound contempt; and so it is useless to prove that such arbitrary devices to increase wages are as ineffectual as were the "Statute of Labourers" and the conspiracy laws to keep wages down. The unionist refuses to believe that wages are proportioned to the productivity of industry and the abundance of capital, and that whatever tends to restrict output, whether it be legislation or union regulations, reacts in the long run upon the worker. Unfortunately for the worker, the tendency of unionism has been to lead him to look upon wages as so much money extracted from the capitalist, and to regard the capitalist as an enemy to be despoiled; whereas facts show that if the interests of capital and labour are not identical they are certainly not antagonistic: they are reciprocal. The real antagonism is between employer and employer. There is reason to fear that the evil done by unionism in fostering this spirit of antagonism far more than countervails any good they do. In a country which has been described as the paradise of the worker's, the agitators tell him that he is unjustly treated, that he has a right to more than he receives, that the only obstacle to his obtaining more is the employer, and that the way to extract it is by coercion. Such teaching is especially mischievous in a country such as New Zealand, where the people are omnipotent. Unionism has its uses, but as an instrument of socialistic warfare it is utterly mischievous. At present this warfare is carried on by means of legislation directed against capital through the Arbitration Court.

By means of incessant labour legislation and everlasting disputes capital is kept in a state of uncertainty and perturbation, but the union leaders either refuse to recognise the fact or glory in it. They laugh at the idea of frightening capital, and call it a "bogey" set up by the employers, just as they laughed at the "bogey" of foreign competition in the engineering lockout of 1897-8.

In England the danger is proving to be so real that a scheme is now on foot to send union delegates abroad to see for themselves and report to their deluded confreres. In France the Socialist Labour party is actively engaged in labour legislation, and M. Millerand, the socialistic representative of that party in the Ministry, has found it necessary to warn them of the danger of frightening capital into taking flight. In New Zealand there are unmistakable signs that capital is becoming alarmed, but noth-

ing short of actual experience can bring conviction to the average unionist, whilst as for the agitator he glories in frightening capital.

At present the unions are concentrating their efforts mainly upon two objects—using the court for the purpose of securing preference for unionists, and getting a minimum wage fixed in every trade. They seem to think that the decree of the court can maintain a "living" wage in spite even of bad times. We could forgive to unionism a great deal if it tended to promote the efficiency of labour, but it cannot and does not make any such pretension. There can, indeed, be no doubt that the joint effect of the minimum wage and the preference to unionists is very much in the opposite direction. Formerly the unions consisted of the elite of the workmen, because the policy was to exclude men who were not worth the standard wage; but this is now impossible. The effect of this is to countervail whatever tendency unionism had towards increasing the efficiency of labour, which is admitted by Dr and Mrs Webb to be essential to justify their existence. It has no doubt made them more "independent," as the following incident will show: A master painter engaged two unionists for a job of painting and papering; one he selected because of his being an expert paperhanger, and the other because of his skill as a painter. On visiting the job for the first time he found the paperhanger doing the painting, and the painter doing the paperhanging. On asking the men to change places, one of them, instead of complying, told this tyrannical master to go to —— with his job, and left. This is what unionists would call a spirit of independence. It is perfectly clear that when such a spirit as this pervades the men an employer has no control over his business, and to dismiss a unionist for disregarding instructions is out of the question. But even Mill, the great advocate of unionism, admits that to extract work from employees without the power of dismissal is not practicable. But matters are coming to such a pass in this best of all possible countries that employers durst not dismiss a workman if he is a unionist. The following little incident illustrates the obverse side of the unionists' idea of independence:—An employer on his way to a job one morning forgathered with two of his men. The employer happened to be carrying a parcel of material for the job, and the men relieved him of the burden. Presently they hastily handed him back the parcel, pointing to some workmen who had come in sight some distance off, and explaining that if they should be seen by other members of the union carrying anything for the employer before starting time they were liable to be reported to the union and fined! Anything more contemptible than such a spirit amongst men it were indeed difficult to imagine: tyranny, miscalled indepedence, towards employers and espionage and intimidation as between themselves, and through it all the determination to give the employer as little value as possible for wages received.

The evil effects of the minimum wage (especially when combined with preference, whilst membership of a union is no guarantee of competence) are obvious. In the first place, although the fixed wage is a minimum, not a maximum, it is to be expected that the minimum will tend to become the maximum. An employer compelled to pay some of his men more than they are worth is certain to pay good men less than they are worth, unless the demand for labour is so great as to make this impossible. This tendency is admitted by the authors of "Industrial Democracy," and our experience in New Zealand shows this to be the actual result. The skilled workman, who is naturally inclined to take pleasure in the full exercise of his skill, and who is probably too high spirited to submit to union tyranny, is affronted to find that the duffer at his elbow, who perhaps works on the "ca' canny" principle, receives the same wage as himself. The effect of this upon the industry of the country must be very serious; but what is most serious is the effect upon the character and efficiency of the worker. The effect upon apprentices must be most pernicious; knowing that as soon as he becomes a journeyman he becomes entitled to the minimum wage, the apprentice has no incentive to improve himself and carry on his education. Decline of efficiency is inevitable, and I am informed by employers in the building trade that within the last few years it has been so marked that, in estimating the cost of work, they have to allow for three men where formerly they allowed for only two. If this be really the effect of unionism and regulation of industry by law, then there could be no greater condemnation, for it is not only our industries that are endangered, but the character of our people, and even civilisation itself.

Let us now proceed to consider some of the more direct effects of the minimum wage. The unions strenuously claim credit for the general rise in wages; but there is good reason to believe that in many cases it has been attained not by means of unionism, but in spite of it—by reason of the increase of production, by the increased use of machinery, and improved methods of work. As to the fact of the increase there is no doubt: not only the nominal

(money) wages. but the real wages have increased, because the prices of the necessities and conveniences of life have tended to decrease even more than nominal wages have increased. That this is the tendency under conditions of freedom there is no doubt; but can the same be said under a system used for the purpose of artificially and arbitrarily raising wages? The answer must be in the negative, so far as the New Zealand experiment is concerned. Nominal (money) wages have been raised in many instances by the court, but even unionists admit that prices have gone up in a greater proportion. The ultimate outcome is that real wages (i.e., the number of commodities that can be bought with the money wages) have not increased. A natural rise of wages does not increase prices or diminish profits, but an arbitray rise tends to produce both of these effects, and the only way of increasing the income and improving the material condition of the wage-earners is through a natural and permanent advance of real wages. The worker's standard of living is not improved by merely giving him more money to spend, but by enabling him to buy more of the good things of life with his wages. Unfortunately his notions on the subject are perverted and confused: he imagines, with Ben Tillet, that wages should regulate prices instead of prices regulating wages; and one can easily see that this preposterous idea lies at the root of many of the demands made before the court. But even the unionists are beginning to realise the absurdity of the idea that a general rise of wages attained by means of an equal or greater rise in prices is beneficial; and in some cases it has actually been suggested that the court might raise wages by reducing the price of the raw material! A beautiful illustration of the difficulties created by artificial devices for raising wages! The unionist leaders seek to evade this difficulty, and at the same time appeal to the prejudice against employers, by putting into the worker's head that most mischievous and fallacious conception that wages come out of the employer's pocket. The unionist imbued with the teachings of Karl Marx thinks it is for the benefit of the workers that the employer's capital should be eaten up and consumed in the payment of wages.

The recent history of the boot trade in New Zealand presents a lesson which even the unionists are taking to heart. It will be remembered that the court, having regard to the effect of the importation of American goods upon the local industry, refused to raise the minimum wage. What is the result? That the workers, recognising the impossibility of keeping up wages by decree of the court, have joined the employers in sending two operatives to the United States to learn the American system. Here, then, is a case in which even unionists have been constrained to admit that neither acts of Parliament, nor awards, nor further protection, could enable them to compete with the Americans, and that the only way is to increase and cheapen production.

The same thing must happen in all industries in which foreign competition can operate. There are, no doubt, some industries in which it is possible to maintain a minimum wage by raising prices, and in some trades there has existed what can only be described as a conspiracy between the unionists and the employers (to which the Conciliation Boards and the court have been parties) against the interests of the public as consumers. But, after all, the workers themselves constitute by far the larger proportion of the consumers, so that an increase of (nominal) wages gained at the cost of an equal (and probably greater) increase in the cost of necessaries is no real benefit to them, whilst such an increase is positively unfair to other classes in the community. Here we come face to face with one of the fundamental objections to the mimimum wage—the fact that it does not give the first place to the interest of the consumer. No one objects to the unions seeking to obtain for the workers a greater share of the social wealth of the community, but when they try to attain this end at the expense of other classes or otherwise than by increasing the wealth of the community their influence is wholly mischievous.

There is one class in particular that has all to lose and nothing to gain by the action of the unions, and the Court of Arbitrations, and, indeed, by our boasted labour legislation generally—the farmers, the most important class in the community. Agriculture, according to a Chinese proverb, is the root of the social tree, and manufacture and trade are merely the branches. I remember seeing a pictorial presentation of the same idea in a country storekeeper's almanac, where the clergyman was represented as praying for all, the advocate as pleading for all, the soldier as fighting for all, whilst the farmer at his plough came last, saying "I work for all." When the unionist mechanic, who makes the farmer's plough, applies to the court for an increase of wages, he imagines he can overcome all objection by suggesting an equal increase in the price of the plough; and when the statutory Providence to whom we have entrusted the regulation of all our industries ventures mildly to suggest that an increase in the price might reduce work by increas-

ing importations, the unionist is ready with his favourite remedy—more protection by increase of duty; or if the industry in question happens to be one in which the farmer's produce forms the raw material the unionist will suggest that the difficulty might be met by a reduction in the price paid to the producer—the farmer. This actually happened in the case of the tanners when a reduction in the price of hides was suggested! And yet the unionists and the unionists' Premier think the farmers should not form unions. Self-protection is the utmost the poor farmer can hope to achieve by forming unions, for neither the statutory Providence that presides over the sublime Court of Arbitration, nor the omnipotent Parliament itself can fix a minimum price for the farmers' oats, his wheat, or his mutton, or his wool. No, not even if the Trades and Labour Council gave them permission to fix a minimum price and vouchsafed to the farmers the official countenance and support of the Labour party.

Even the unionists themselves are beginning to have a doubt as to the practicability of fixing and maintaining a minimum wage by ordinance, and it is beginning to dawn upon them that they may eventually "have to come out by the same hole where they went in." The labour advocates before the boards and the court are in the habit of attempting to justify their demand for increase of wages by pointing to the great increase in the cost of necessaries of life, and especially the rise in house rents. They are compelled to admit that to some extent that is the result of the working of the system; but they find it necessary to complete the circle by bringing all industries under awards. In a recent case one of the labour advocates urged upon the board the fact that Dunedin is one of the most expensive towns in the world to live in! and therefore it was necessary to raise wages: the old circle of protection and restriction making further protection necessary.

One of the favourite arguments of the agitator, termed advocate, is the enormous increase in house rents, which he, of course, attributes to the rapacity of the landlords. The landlord may have to pay about one-third more for material and labour in order that the worker may receive higher wages, but he must not raise the rent; and in order to reduce rents the Government or the municipality must build houses to be let to the poor workers at low rents! At all hazards the wage-earner must be saved from the consequences of his own action. If the wicked capitalists button up their pockets and rfuse to make work for him, then the Government must do it! As for the farmers and other classes who suffer equally in consequence of increased prices, they are not worth considering!

Such are some of the difficulties incidental to attempts to fix arbitrarily the rate of wages. Another evil inseparable from the minimum wage is the hardship it entails upon the elderly and slow-working man. In many cases employers are anxious to keep on faithful workmen when they are past their best, and are no longer worth the minimum wage, but of course at a lower wage. But this is not business, but mere kindliness, and it is not allowed by the unions; such men must become pensioners on the State. We are, of course, aware that the awards make provision for "permits," allowing elderly or slow workmen to take employment at wages less than the minimum. But such a system is open to many objections—it is humiliating to the workmen; and, except when the demand for labour is exceptional, employers prefer to have nothing to do with the men who are neither worth the minimum nor free to take work at a wage which the worker himself, as well as the employer, may consider fair. It pays the employer better to pay the minimum to good men than to pay less to inferior men. Many a deserving man has had to endure bitter humiliation and hardship from the operation of the minimum wage in Victoria, and there the system has utterly broken down.

An instance of this has been brought under my notice as I write. An employer in Christchurch was keeping on one of his workmen when he was over 70 years of age, and paying him 7s a day. The unionists came along and insisted upon the employer paying the minimum wage, and the consequence was that the workman had to be turned adrift. The unionists will no doubt say he can get an old-age pension; and if he cannot, he is entitled to charitable aid

We have yet to learn that there are some demands which can only be made by madmen and listened to by fools, and this demand for a minimum wage in all industries seems to be one of them. At the root of it lies the Utopian cry, "Equality and Fraternity," at once preached and discredited by the French Revolution. For Liberty we have substituted Liberalism, which in New Zealand means its opposite; and we are likely to learn by experience the truth of the saying, "Equality may be a right, but no human power can convert it into a fact." But we may perhaps console ourselves with the reflection that there is a presumption that what cannot be accomplished ought not to be accomplished.

VII.—JUDGE BACKHOUSE'S REPORT.

If hopes are dupes, fears may be liars.

We have been studying the working of a unique experiment in labour legislation, the outcome of which is being closely watched by other countries. In New South Wales a bill embodying the principle of compulsory arbitration (but without conciliation provisions) passed the Legislative Assembly last year, but was lost in the Council. Now, it is perfectly clear from the expressions used by the then Premier, Sir W. J. Lyne, that when he undertook the great responsibility of introducing a measure of such tremendous importance he must have been quite ignorant of the real nature and outcome of our act. It is indeed comical, and says little for the statesmanship of New South Wales, and indeed of the other Australian colonies, that their politicians should be so ready to slavishly follow the example of New Zealand in this and other matters. It reminds one of our own action during the last Melbourne boom, when New Zealand was sunk in depression, and we thought of nothing but studying and imitating the means by which the supposed marvellous prosperity of Victoria had been brought about. But it is not merely the supposed success of our labour legislation as a means of advancing the prosperity of the colony that has made it so attractive to Australian politicians, but rather its proved effectiveness in securing for the Seddon Ministry the support of the Labour party, and a long term of office. This is sufficient to account for the New South Wales Industrial Arbitration Bill, and for the infamous conduct of the first Commonwealth Government in introducing into their programme, for the sake of securing the Labour vote, two such momentous measures as compulsory arbitration and old-age pensions. If anything further were necessary to confirm thinking people in New Zealand in their opposition to federation the fact that the first Federal Ministry should consist of men capable of paltering with such subjects should be sufficient. The attitude of Mr B. R. Wise, Attorney-general of New South Wales, on this subject is difficult to understand. Here we see a pronounced individualist and author of an able book against Protection, advocating a measure which involves infinitely more of State interference and regulation of industry than does mere Protection. The position of Mr Reeves, the author of the New Zealand act, was very different: he described himself as "a straightout socialist" (whatever he may be now), and I think it is perfectly clear from the extracts from his speeches given in my first paper that even the socialistic Mr Reeves would never have fathered our act if he could have foreseen that it would be perverted into a system of State regulation of industries; one thing is certain—the New Zealand Parliament would not have passed it in 1894. When Mr Wise introduced his bill first he probably intended it, as Mr Reeves intended his bill, merely as a means for the prevention and settlement of strikes, and he was probably not aware of the fact that our act had never been applied to the purpose for which it was intended, when he referred to the success of our act in justification of his action. But he cannot urge that excuse any longer, for he cannot fail to see, even through the opaque medium of Judge Backhouse's report, that our system is not one for the prevention of strikes. The members of the New Zealand Legislature thought they were enacting a measure "to facilitate the settlement of industrial disputes" (in the words of the preamble); they find they have created a perfect Frankenstein's monster. If, in spite of our experience, Mr Wise persists in the attempt to foist upon his country an act which must inevitably be perverted as ours has been, then great indeed will be his responsibility; but, if by reason of the political exigencies of his party he should refuse to read the lessons to be derived from our experience, then the terms adequate to characterise his conduct would be such as no statesman would like to have applied to him.

Turning now to Judge Backhouse's report, the first thing that occurs to one is the strange fact that a judge should have been sent upon such a mission rather than an experienced business man. It shows clearly that those who selected him must have thought that what he had to report upon was a system for the settlement of real disputes, and not one for the regulation of industry. It is much to be regretted that the judge has failed to make it clear that he realised the difference between what he expected to find and what he actually did find. The omission renders his report not only of comparatively little value, but positively misleading. He refers over and over again to "the principle of the act," and informs his Government and the people of the colony that in New Zealand "a very large majority of the employers interviewed are in favour of the principle of the act"; and yet he nowhere points out the divergence from the principle in actual practice—that, in point of fact, the principle has never been applied at all. The principle of which the employers approve is that for which the act was intended, not that to which it has ben perverted. If the judge were to return to New Zealand he would find that the employers are only now realis-

ing what the act means in its actual application, and that they are as far as possible from approving of it; he would find, instead, that the feeling is rapidly spreading in the community that if the act continues to be abused it must become a curse and a nuisance, instead of what it was intended to be—a blessing. If the judge had exercised any penetration and sagacity he could not have failed to discover that what he found in operation is not a system for the settlement of industrial disputes (in the ordinary and proper sense), but one essentially the same as that existing in Victoria; the differences being that in Victoria the boards are serving the purposes for which they were created (for good or for ill), whilst our boards and court are serving a very different purpose from that for which they were created. And the Victorian system is much more rational in conception than ours. What is the reason that our system places a Supreme Court judge at the head of the Court of Arbitration? It is simply that his function was intended to be the settlement of strikes and disputes likely to issue in strikes. Is it to be supposed that, if the New Zealand Legislature had intended to create an authority for regulating all the conditions of industry, it would have chosen a judge for the purpose? There is no presumption that a judge has any qualifications for the discharge of such a function. If Judge Backhouse had realised the real nature of the system he could not have failed to note the absurdity of committing to a court of any kind the regulation of industries. As a tribunal for the settlement of real disputes, a court consisting of a Supreme Court judge and two members representing the contending interests might suit well enough; but to commit to a single individual, merely because he happens to be a Supreme Court judge, with an associate on each side for the purpose of pulling him in opposite directions, would be a supreme act of folly. This is what we have done in New Zealand, but we have the excuse that it is not what we intended; we did not foresee the possibility of the judge having to play the part of Governor-general of Industries, which the unions have imposed upon him. Judge Backhouse says: "There is one matter about which both sides are emphatic—namely, the necessity of having a Supreme Court judge as president of the court, and he leaves it to be inferred that this is on account of some special fitness in such a president; but the reason is simply that a judge is independent of the Executive. That any Parliament should, with full knowledge of the facts, deliberately follow our example is simply inconceivable. The unfortunate thing is that there is nothing to show that Judge Backhouse realised clearly the significance of the fact that the system he found in actual operation was something quite different from what he came to report upon; and that he professes to find in the system actually existing answers to questions regarding a system that has never existed. The judge says "the act has prevented strikes of any magnitude," and the statement will no doubt be seized upon by his Government as justifying their action; in point of fact, the words are meaningless in relation to a system that has nothing to do with the prevention of strikes. The statement is therefore misleading. Again, the judge says "the act has, on the whole, brought about a better relation between employers and employees than would have existed if there were no act." Now, if by these words the judge means to say that relations are more friendly now than they were before the act, how is he to reconcile it with the fact stated by himself that in less than five years 109 disputes have come before the boards, and that in only about a third of them was conciliation brought about. Formerly, the relations were generally friendly, but now they are just as friendly as those of litigants usually are. If the judge means that relations are now more friendly than they would be if the act were to be repealed, he is probably right, for the simple reason that under the operation of the act labour has passed from the stage in which it enjoys and appreciates freedom into that in which it has become used to the exercise of tyranny.

If the New South Wales Government had appointed as its commissioner a business man of some perspicacity, who could see the true inwardness of our system for himself, instead of a judge, who merely summarises what he was told, we should probably have received some fresh light upon the subject, and found him arriving at some such conclusions as the following:—

1. That he found in operation a system totally different from that which he expected to find, and from that which the New Zealand Parliament intended to set up.

2. That the same thing will inevitably happen in New South Wales if an act should be passed on the lines of the New Zealand act.

3. That the experience of New Zealand affords no guidance as to the practicability of schemes for the settlement of industrial disputes by compulsory arbitration; but that it shows conclusively that it is impossible to combine in the same scheme conciliation and compulsory arbitration.

4. That a permanent tribunal set up for the settlement of industrial disputes

will inevitably be perverted into a means of regulating all industries, if the workers are accorded the right of invoking the intervention of the court in any dispute; and that the way to avoid this is to adopt the Massachusetts system, under which it lies with the Conciliation Board to constitute itself a legal tribunal, in case of the failure of conciliation.

5. That the New Zealand experiment is valueless except for negative conclusions, inasmuch as the period of six years that the act has been in actual operation has been one of gradually-increasing prosperity.

6. That the presumption against the success of any scheme for the arbitrary regulation of industry is fortified by the New Zealand experiment, inasmuch as it has largely increased the cost of living.

It only remains to add that the writer did his best as a member of the Legislature to secure the passing of the act; that he believed it would prove a beneficent measure, and still believes it would have so proved had it not ben perverted to improper uses; that he has watched it closely from its inception, hoping against hope that it might yet fulfil its promise and justify the expectations of its author; that he has been reluctantly driven to the conclusion that it is proving, and must more and more prove, a curse instead of a blessing; that the best thing that could happen would be the repeal of the act, but that this is impossible because of the domination of organised labour; that the trade unions, by persisting in their abuse of the system by using it as a means of tyrannising over employers and others, will sicken and disgust the community, and that when dull times come the act will be allowed to fall into desuetude. The experiment presents a remarkable illustration of the truth of Machiavelli's saying, "Let no man who begins an innovation in a State expect that he can stop at his pleasure, or regulate it according to his intention." Judge Backhouse concludes his report upon the act with the following words: "Whatever may be the result, the world owes a debt of gratitude to New Zealand for having undertaken the task of demonstrating whether it is possible or not to settle industrial troubles by compulsory arbitration." If the judge had exercised some judgment and perspicacity, he might have earned the gratitude of his colony by pointing out that, although New Zealand undertook the task, she has failed to perform it, or even to attempt performance; and that, instead of admitting her failure, she tries to delude herself and others into the belief that she has successfully performed the task she undertook: "Her faith unfaithful makes her falsely true." As to the motives of the author of the measure there can be no doubt, but the outcome shows how true it is that the highest motives lead the best of men to the most doubtful of policies.